

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INVESTOR COMMUNICATIONS
INTERNATIONAL, INC.,

Petitioner,

v.

UNITED STATES OF AMERICA, and
PAUL SHIPLEY, REVENUE AGENT,
INTERNAL REVENUE SERVICE,

Respondents.

No. C05-1959Z

ORDER

This matter comes before the Court on the United States' (Respondent) Motion to Dismiss, docket no. 4. In accordance with 26 U.S.C. § 7609(b)(2)(A), Investor Communications International, Inc. (Petitioner) properly filed its Amended Petition to Quash Summons, docket no. 3, with the Court. However, Petitioner failed to follow the requirements of 26 U.S.C. § 7609(b)(2)(B) because it did not properly serve the United States.

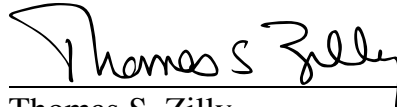
Because 26 U.S.C. § 7609 contains a waiver of the United States' immunity against suit, such waivers must be strictly and narrowly construed. See United States v. Sherwood, 313 U.S. 584, 590 (1941). As such, failure to serve the United States deprives the Court of jurisdiction as the United States has only waived its sovereign immunity for the 20 day period subsequent to the date of issuing the Secretary's notice. See 26 U.S.C. §

1 7609(b)(2)(B); Maikranz v. United States, 612 F. Supp. 590, 591 (S.D. Ind. 1985); Dorsey v.
2 United States, 618 F. Supp. 471 (D.Md. 1985); see also Yocum v. United States, 586 F.
3 Supp. 317, 318 (N.D. Ind. 1984) (“Strict construction of statutes that waive sovereign
4 immunity extends to the statutory time limitations contained therein.”). Petitioner admittedly
5 failed to properly serve the United States Attorney for the Western District of Washington
6 and the Attorney General of the United States in accordance with Fed. R. Civ. P. 4 as
7 directed by the Secretary’s notice that accompanied the copy of summons.

8 Accordingly, the Court finds that the Petitioner’s failure to follow the Secretary’s
9 directions deprives the Court of subject matter jurisdiction to hear its claim. Therefore,
10 Respondent’s Motion to Dismiss, docket no. 4, is GRANTED, and Petitioner’s Amended
11 Petition to Quash Summons, docket no. 3, is DISMISSED.

12 IT IS SO ORDERED.

13 DATED this 13th day of December, 2005.

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16 Thomas S. Zilly
United States District Judge
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